

shall be paid by the railway company to said Secretary; the damages and compensation paid to the Secretary of the Interior by the railway company taking any such land shall be paid by said Secretary to the allottee sustaining such damages.

(Mar. 3, 1909, ch. 263, 35 Stat. 781, 782; May 6, 1910, ch. 204, 36 Stat. 349.)

#### CROSS REFERENCES

Acquisition of lands, see section 465 of this title.

### § 321. Rights-of-way for pipe lines

The Secretary of the Interior is authorized and empowered to grant a right-of-way in the nature of an easement for the construction, operation, and maintenance of pipe lines for the conveyance of oil and gas through any Indian reservation, through any lands held by an Indian tribe or nation in the former Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose in connection with the Indian Service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation upon the terms and conditions herein expressed. Before title to rights of way applied for hereunder shall vest, maps of definite location shall be filed with and approved by the Secretary of the Interior: *Provided*, That before such approval the Secretary of the Interior may, under such rules and regulations as he may prescribe, grant temporary permits revocable in his discretion for the construction of such lines: *Provided*, That the construction of lateral lines from the main pipe line establishing connection with oil and gas wells on the individual allotments of citizens may be constructed without securing authority from the Secretary of the Interior and without filing maps of definite location, when the consent of the allottee upon whose lands oil or gas wells may be located and of all other allottees through whose lands said lateral pipe lines may pass has been obtained by the pipe-line company: *Provided further*, That in case it is desired to run a pipe line under the line of any railroad, and satisfactory arrangements cannot be made with the railroad company, then the question shall be referred to the Secretary of the Interior, who shall prescribe the terms and conditions under which the pipe-line company shall be permitted to lay its lines under said railroad. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval. And where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding \$5 for each ten miles of line so constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be law-

fully assessed against them by either State, Territorial, or municipal authority. And incorporated cities and towns into and through which such pipe lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities, and nothing herein shall authorize the use of such right of way except for pipe line, and then only so far as may be necessary for its construction, maintenance, and care: *Provided*, That the rights herein granted shall not extend beyond a period of twenty years: *Provided further*, That the Secretary of the Interior, at the expiration of said twenty years, may extend the right to maintain any pipe line constructed under this section for another period not to exceed twenty years from the expiration of the first right, upon such terms and conditions as he may deem proper. The right to alter, amend, or repeal this section is expressly reserved.

(Mar. 11, 1904, ch. 505, §§1, 2, 33 Stat. 65; Mar. 2, 1917, ch. 146, §1, 39 Stat. 973.)

#### CODIFICATION

The "former Indian Territory", referred to in text, was in the original "Indian Territory", and has been designated as former Indian Territory by virtue of the admission of such former Territory and the Territory of Oklahoma to the Union as the State of Oklahoma, pursuant to act June 16, 1906, ch. 3335, 34 Stat. 267.

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15.

#### CROSS REFERENCES

Acquisition of lands, see section 465 of this title.  
Pueblo Indians of New Mexico, application of section, see section 322 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 322 of this title.

### § 322. Applicability of certain provisions to Pueblo Indians

The provisions of the following statutes:  
Sections 311, 319, and 357 of this title;  
Sections 312 to 318 of this title;  
Section 321 of this title; and  
Sections 323 to 328 of this title,

are extended over and made applicable to the Pueblo Indians of New Mexico and their lands,

whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise, under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

(Apr. 21, 1928, ch. 400, § 1, 45 Stat. 442; Sept. 17, 1976, Pub. L. 94-416, § 3, 90 Stat. 1275.)

#### AMENDMENTS

1976—Pub. L. 94-416 inserted reference to sections 323 to 328 and 357 of this title with respect to the enumeration of statutes, struck out reference to section 935 of title 43 with respect to the enumeration of statutes, and inserted “whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise,” after “New Mexico and their lands”.

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, § 1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15.

#### **§ 322a. Renewal of rights-of-way without consent of Pueblo Tribes; authority of Secretary; compensation, etc.**

Notwithstanding such provisions, the Secretary of the Interior may, without the consent of the affected Pueblo Tribes, grant one renewal for a period not to exceed ten years of any right-of-way acquired through litigation initiated under the Act of May 10, 1926 (44 Stat. 498), or by compromise and settlement in such litigation, prior to January 1, 1975. The Secretary shall require, as compensation for the Pueblo involved, the fair market value, as determined by the Secretary, of the grant of such renewal. The Secretary may grant such right-of-way renewal under this section only in the event the owner of such existing right-of-way and the Pueblo Tribe involved cannot reach agreement on renewal within ninety days after such renewal is requested. Nothing in this section shall be deemed to validate or authorize the renewal of a right-of-way which is otherwise invalid by reason of the invalidity of the Act of May 10, 1926, on the date said right-of-way was originally obtained.

(Apr. 21, 1928, ch. 400, § 2, as added Sept. 17, 1976, Pub. L. 94-416, § 3, 90 Stat. 1275.)

#### REFERENCES IN TEXT

Notwithstanding such provisions, referred to in text, means the provisions referred to in section 322 of this title.

Act of May 10, 1926, referred to in text, is act May 10, 1926, ch. 282, 44 Stat. 498, which was not classified to the Code.

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, § 1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15.

#### **§ 323. Rights-of-way for all purposes across any Indian lands**

The Secretary of the Interior be, and he is empowered to grant rights-of-way for all purposes, subject to such conditions as he may prescribe, over and across any lands now or hereafter held in trust by the United States for individual Indians or Indian tribes, communities, bands, or nations, or any lands now or hereafter owned, subject to restrictions against alienation, by individual Indians or Indian tribes, communities, bands, or nations, including the lands belonging to the Pueblo Indians in New Mexico, and any other lands heretofore or hereafter acquired or set aside for the use and benefit of the Indians. (Feb. 5, 1948, ch. 45, § 1, 62 Stat. 17.)

#### EFFECTIVE DATE

Section 7 of act Feb. 5, 1948, provided that sections 323 to 328 should not become operative until 30 days after Feb. 5, 1948.

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, § 1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 322, 326, 327, 328, 1724 of this title; title 43 section 421c.